

STATE OF MICHIGAN
DEPARTMENT OF LABOR AND ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE REGULATION
Before the Commissioner of Financial and Insurance Regulation

Office of Financial and Insurance Regulation,
Petitioner

v

Enforcement Case No. 08-5586

Andrew J. Lott,
Respondent

For the Petitioner:

Marlon Roberts
Office of Financial & Insurance Regulation
P.O. Box 30220
Lansing, MI 48909-7720

For the Respondent:

Andrew J. Lott


Issued and entered
this 15th day of September 2008
by Ken Ross
Commissioner

FINAL DECISION

**I.
BACKGROUND**

On May 22, 2008, Chief Deputy Commissioner Frances K. Wallace issued an Order Referring Complaint for Hearing and Order to Respond in this case. The Order for Hearing set forth detailed allegations that Respondent Lott had erroneously been granted an insurance producer license for which he was not qualified, Respondent having been convicted of a felony before he applied for the license.

On August 6, 2008, the Petitioner filed a Motion for Summary Decision. The motion was granted in an order issued August 15, 2008. Shortly after the motion was granted, it was learned that the decision to grant the motion was based on a factual error. The August 15 order

was rescinded on August 20 and Respondent Lott was given until September 4 to file a written response to Petitioner's motion. Mr. Lott's response was received on September 4.

In his response, Mr. Lott states that he properly disclosed his felony conviction on his license application and was granted a waiver permitting him to act as an insurance producer. Mr. Lott submitted a copy of the document dated July 18, 2006. Mr. Lott also submitted a copy of a portion of his Office of Financial and Insurance Regulation ("OFIR") licensing record.

II DISCUSSION

The Commissioner has considered the Petitioner's motion and Respondent's arguments in opposition to the motion. The facts necessary to resolving this matter are not in dispute:

1. Respondent Andrew Lott was licensed as an agent in Michigan between June 1998 and August 2005. His license was suspended September 1, 2005 when he failed to complete continuing education requirements. The license became inactive December 1, 2005.
2. Respondent applied for an insurance producer license in August 2006. (Because of changes in Michigan's insurance licensing statute in 2002, the term "insurance producer" has replaced the term "insurance agent.") The insurance producer license was issued to Respondent on September 5, 2006.
3. On his producer license application, Respondent disclosed that in 2004 he had been convicted of two felonies: home invasion, second degree and illegal sale or use of a financial transaction device.

Section 1205(1) of the Michigan Insurance Code, MCL 1205(1), prohibits issuing insurance producer licenses to individuals who have been convicted of a felony. Because he has

been convicted of a felony, Respondent does not meet the requirements to be licensed as a producer under the Michigan Insurance Code.

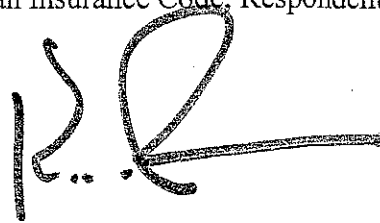
Respondent offers the July 18, 2006 letter to establish that this agency had considered his application and felony conviction and issued a waiver allowing him to act as an insurance producer. In fact, the letter was issued by an OFIR employee who had no authority to issue such a waiver. The letter cites a federal statute as the authority for such a waiver. However, federal law has never served as the basis for licensing decisions by OFIR. The prohibition against licensing individuals with felony convictions is explicitly stated in section 1205(1) of the Michigan Insurance Code, MCL 500.1205(1), and has been the stated policy of this agency since the 2002 revisions of the Insurance Code licensing statute as detailed in the 2004 licensing case, *Mazur v Office of Financial and Insurance Services* (Case No. 03-384-L).

For these reasons, the motion of Petitioner is granted.

III ORDER

The hearing scheduled for September 25, 2008 is cancelled.

In accordance with section 1205(1) of the Michigan Insurance Code, Respondent's insurance producer license is revoked.

A handwritten signature in black ink, appearing to read 'K. Ross', is written over a horizontal line.

Ken Ross
Commissioner